

**Opinion No. 53-5764**

June 17, 1953

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. Tito Valdez Director, Text Book Division Department of Education Santa Fe, New Mexico

{\*165} In your letter dated June 11, 1953, you state that § 55-1706, N.M.S.A., provides that text books funds be distributed on the basis of average daily attendance in a school for the previous year. No provision is made for determination of average daily attendance in a newly created school. You are wondering what procedure should be followed in connection with a newly created school.

It is true that the above mentioned section makes no provision for a newly created school, however, pupils attending such school are entitled to free text books in the same manner as pupils attending schools previously existing. The number of free text books necessary to be furnished the pupils in a newly created school can be estimated or ascertained from the enrollment records at the beginning of the school year and text books can be furnished to such pupils out of the Emergency Fund set up for such purposes by the Text Book Division, if necessary.

I trust that this answers your inquiry.

By: C. C. McCulloh

Assist. Attorney General